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PATENT APPLICATION

ATTORNEY DOCKET NO. 10017341-1

IN THE
UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor(s): Debargha Mukherjee et al.

Confirmation No.: 3271

Application No.: 10/699,444

Examiner: Backhean Tiv

Filing Date: Oct. 31, 2003

Group Art Unit: 2451

Title: COMMUNICATIONS METHODS, COMMUNICATIONS SESSION ORGANIZERS, COMMUNICATIONS
SESSION PARTICIPANTS, ARTICLES OF MANUFACTURE, AND COMMUNICATIONS SYSTEMS

Mail Stop Appeal Brief - Patents
Commissioner For Patents
PO Box 1450
Alexandria, VA 22313-1450

TRANSMITTAL OF REPLY BRIEF

Transmitted herewith is the Reply Brief with respect to the Examiner's Answer mailed on Feb. 2, 2010 .

This Reply Brief is being filed pursuant to 37 CFR 1.193(b) within two months of the date of the Examiner's Answer.

(Note: Extensions of time are not allowed under 37 CFR 1.136(a))

(Note: Failure to file a Reply Brief will result in dismissal of the Appeal as to the claims made subject to an expressly stated new ground rejection.)

No fee is required for filing of this Reply Brief.

If any fees are required please charge Deposit Account 08-2025.

Respectfully submitted,
Debargha Mukherjee et al.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Appellant: Debargha Mukherjee

Examiner: Backhean Tiv

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REPLY BRIEF TO EXAMINER'S ANSWER

Mail Stop Appeal Brief – Patents

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Dear Sir:

This Reply Brief is presented in response to the Examiner's Answer mailed February 2, 2010, and in support of the Notice of Appeal filed October 15, 2009 and the Appeal Brief filed December 10, 2009, appealing the rejection of claims 1-9 and 35-50 of the above-identified application as set forth in the Final Office Action dated July 15, 2009.

The U.S. Patent and Trademark Office is hereby authorized to charge required fees or credits due to Deposit Account No. 50-0471 at any time during the pendency of this application.

Appellant respectfully requests reconsideration and reversal of the Examiner's rejection of pending claims 1-9 and 35-50.

Reply Brief to Examiner's Answer

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ARGUMENT

All arguments presented in Appellant's Brief are incorporated by reference herein. Further, Appellant responds to the Examiner's Answer as follows.

A. The combination of Karla, Goetz and Molteno is improper and the 103 rejection of claims 1-9 and 35-50 is in error.

The Examiner's Answer provides new and additional reasons for combining Goetz with Karla and for combining Molteno with Karla as modified by Goetz. Examiner's Answer, pp. 13-15. These additional reasons fail to provide a sufficient basis for combining Karla, Goetz and Molteno to support the 103 rejection.

To combine Goetz with Karla, the Examiner's Answer asserts that "Goetz's system [is] also used for organizing multimedia information to a new file format, in which there are several instances of a particular media type, with each instance having different characteristics, col. 2, lines 55-67." Examiner's Answer, p. 14. What the Examiner's Answer fails to appreciate is that the data format disclosed by Goetz fundamentally differs from the data format taught by Karla such that these data formats cannot be properly combined to support a rejection under 103.

The "instances" disclosed by Goetz are essentially different copies of a related set of information where each copy has a different set of characteristics. As noted by the Examiner's Answer, Goetz discloses that one of these characteristics may be the transmission rate of a network. See col. 4, lines 43-48. With reference to FIG. 3, Goetz discloses that "[t]he data contained in the file body 120 is organized as contiguous media blocks 310, one media block for each instance of a media type, as shown in FIG. 3." Col. 6, lines 41-43. Goetz further discloses that "[t]he file contains a number of potentially related media streams, or instances, organized according to media type, encoding type, subtype, and rate. A presentation, on the other hand, will likely involve only a subset of the available media streams, typically one instance of each of the plurality of media types." Col. 6, lines 13-18 (emphasis added).

Rather than provide different "instances" or copies of data for different network transmission rates, Kalra discloses an adaptive (scalable) digital stream 14 (Fig. 2A). By making the data scalable, Kalra avoids the need to store different copies of the data for

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different client characteristics as disclosed by Goetz. Instead, Kalra dynamically selects subsets of the digital stream 14 based on client profiles. Kalra explicitly discloses that these client profiles may be updated based on network characteristics. Col. 15, line 50+.

In essence, Kalra teaches away from the use of storing multiple instances as disclosed by Goetz. The Examiner's Answer improperly attempts to combine the multiple instances of Goetz with the adaptive streams of Kalra to support a 103 rejection despite the fundamental differences between the disclosures. In addition, the additional citations to Molteno in the Examiner's Answer only serve to demonstrate alleged similarities between the disclosures of Molteno and Kalra. These additional citations also fail to explain why one of ordinary skill in the art would modify Kalra and Goetz based on Molteno to result in the invention set forth in claims 1-9 and 35-50.

Accordingly, Appellant respectfully requests the reversal of the 103 rejection of claims 1-9 and 35-50.

B. Positively-recited limitations of claims 1-9 are not disclosed nor suggested by the teachings of Karla, Goetz and Molteno and the 103 rejection of claims 1-9 is in error.

The Examiner's Answer fails to demonstrate that Goetz discloses the "content independent indexable data structure format" feature recited in claim 1.

The Examiner argues that Goetz discloses "a content independent indexable data structure format" as recited in claim 1 because network statistics, which are independent of the content of the data, are used for encoding the data. As described in the Appeal Brief, however, Goetz discloses the use of content dependent information – i.e., importance information that is "indicative of the relative importance of the packet with respect to the quality of the presentation." Col. 8, lines 32-35. Goetz discloses that the importance information is stored in an importance field 442 in each packet 440 (col. 8, lines 6-8 and 32), that packets 440 are included in media blocks 310 (col. 7, lines 40-46), and that media blocks 310 are included in the file body 120 (FIG. 3 and col. 6, lines 41-43). Accordingly, Goetz plainly discloses that file format 100 with file body 120 includes content dependent information in packets 440 regardless of any other content independent information that may be included in file format 100.

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On page 16 of the Examiner's Answer, the Examiner mischaracterizes Appellant's argument with reference to the disclosure of Goetz at col. 6, line 35. Appellant in no way suggested that the importance information was part of file header 110. The relevant portion of Goetz col. 6, line 35 reads as "the server can index into and iterate over the data packets contained in the file body 120." This portion of Goetz furthers the above disclosures of Goetz that make clear that the importance information is in the file body 120 and not in the file header 110.

The additional citations to Molteno in the Examiner's Answer only serve to demonstrate alleged similarities between the disclosures of Molteno and Kalra. These additional citations also fail to explain why one of ordinary skill in the art would modify Kalra and Goetz based on Molteno to result in the invention set forth in claims 1-9. That is, Molteno fails to cure the deficiencies of Kalra and Goetz to arrive at or suggest the invention set forth in claims 1-9.

Because Goetz plainly discloses the use of content dependent information in packets 440, Goetz teaches away from the "content independent indexable data structure format" feature recited in claim 1. Claims 2-9 also are not rendered obvious by Karla, Goetz and Molteno at least by virtue of dependency from claim 1. Accordingly, Appellant respectfully requests the reversal of the 103 rejection of claims 1-9.

C. Positively-recited limitations of claim 39 are not disclosed nor suggested by the teachings of Karla, Goetz and Molteno and the 103 rejection of claim 39 is in error.

The Examiner's Answer fails to demonstrate that any of Kalra, Goetz, or Molteno, alone or in combination, discloses that "the processing circuitry is configured to access an index using the data requests to identify the subparts" as recited in claim 39.

With regard to Goetz, the Examiner cites the disclosure of packets 440 in Fig. 4D as a disclosure or suggestion of the "subparts" recited in claim 39 and then, without explanation, states that Goetz teaches an index. Appellants are unable to find any index in Goetz that would allow any individual packets 440 in a media block body 430 to be separately accessed. Perhaps more importantly, the "subparts" of claim 39 refer to "a plurality of subparts of scalable media data" as recited in claim 35. As described above in Section A, Goetz teaches

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away from scalable media data by creating different copies (instances) of data for different characteristics. Still further, Goetz does not disclose or suggest identifying the subparts of scalable media data using a plurality the data requests from participants during an interactive media communications session. Accordingly, Examiner's Answer fails to demonstrate that Goetz discloses the above feature of claim 39.

The Examiner also states, without explanation, that Figs. 7A and 7B of Kalra "teaches index of subparts of data stream." Examiner's Answer, p. 17. As with Goetz, Appellants are unable to find any index in this portion of Kalra that would allow any of the additive adaptive streams $\Sigma 1$ - $\Sigma 7$ to be separately accessed. In addition, this portion of Kalra does not disclose or suggest identifying the subparts of scalable media data using a plurality the data requests from participants during an interactive media communications session. Accordingly, Examiner's Answer fails to demonstrate that Kalra discloses the above feature of claim 39.

The additional citations to Molteno in the Examiner's Answer only serve to demonstrate alleged similarities between the disclosures of Molteno and Kalra. These additional citations also fail to explain why one of ordinary skill in the art would modify Kalra and Goetz based on Molteno to result in the invention set forth in claim 39. That is, Molteno fails to cure the deficiencies of Kalra and Goetz to arrive at or suggest the invention set forth in claim 39.

Based on the above, the Examiner fails to demonstrate that any of Kalra, Goetz, or Molteno, alone or in combination, discloses the features of claim 39. Accordingly, Appellant respectfully requests the reversal of the 103 rejection of claim 39.

D. Positively-recited limitations of claim 41 are not disclosed nor suggested by the teachings of Karla, Goetz and Molteno and the 103 rejection of claim 41 is in error.

Appellant respectfully requests the reversal of the 103 rejection of claim 41 for the reasons provided in the Appeal Brief.

E. Positively-recited limitations of claim 45 are not disclosed nor suggested by the teachings of Karla, Goetz and Molteno and the 103 rejection of claim 45 is in error.

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The Examiner's Answer fails to demonstrate that any of Kalra, Goetz, or Molteno, alone or in combination, discloses that "wherein the processing circuitry is configured to arrange the scalable media data into the subparts in accordance with a content independent index and to use the content independent index to scale the subparts of the media data" as recited in claim 45.

The Examiner suggests that Appellant makes the same arguments as in Section A above. As described above in Section A, Goetz teaches away from scalable media data by creating different copies (instances) of data for different characteristics. Still further, Goetz does not disclose or suggest using the content independent index to scale the subparts of the media data. Accordingly, Examiner's Answer fails to demonstrate that Goetz discloses the above feature of claim 45.

With regard to claim 39, the Examiner states, without explanation, that Figs. 7A and 7B of Kalra "teaches index of subparts of data stream." Examiner's Answer, p. 17. As with Goetz, Appellants are unable to find any index in this portion of Kalra that would allow any of the additive adaptive streams $\Sigma 1$ - $\Sigma 7$ to be separately accessed. In addition, this portion of Kalra does not disclose or suggest using the content independent index to scale the different subparts of the scalable media data. Accordingly, Examiner's Answer fails to demonstrate that Kalra discloses the above feature of claim 45.

The additional citations to Molteno in the Examiner's Answer only serve to demonstrate alleged similarities between the disclosures of Molteno and Kalra. These additional citations also fail to explain why one of ordinary skill in the art would modify Kalra and Goetz based on Molteno to result in the invention set forth in claim 45. That is, Molteno fails to cure the deficiencies of Kalra and Goetz to arrive at or suggest the invention set forth in claim 45.

Based on the above, the Examiner fails to demonstrate that any of Kalra, Goetz, or Molteno, alone or in combination, discloses the features of claim 45. Accordingly, Appellant respectfully requests the reversal of the 103 rejection of claim 45.

F. Positively-recited limitations of claim 49 are not disclosed nor suggested by the teachings of Karla, Goetz and Molteno and the 103 rejection of claim 49 is in error.

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The Examiner's Answer fails to demonstrate that any of Kalra, Goetz, or Molteno, alone or in combination, discloses that "access an index of the scalable media data responsive to the data requests; and identifying the respective ones of the different subparts using the index" as recited in claim 49.

As with claim 39, the Examiner cites the disclosure of packets 440 in Fig. 4D of Goetz as a disclosure or suggestion of the "subparts" recited in claim 49 and then, without explanation, states that Goetz teaches an index. Appellants are unable to find any index in Goetz that would allow any individual packets 440 in a media block body 430 to be separately accessed. Perhaps more importantly, the "subparts" of claim 49 are part of "scalable media data comprising a plurality of subparts" as recited in claim 46. As described above in Section A, Goetz teaches away from scalable media data by creating different copies (instances) of data for different characteristics. Still further, Goetz does not disclose or suggest identifying the respective ones of the different subparts using the index. Accordingly, Examiner's Answer fails to demonstrate that Goetz discloses the above feature of claim 49.

The Examiner also states, without explanation, that Figs. 7A and 7B of Kalra "teaches index of subparts of data stream." Examiner's Answer, p. 17. As with Goetz, Appellants are unable to find any index in this portion of Kalra that would allow any of the additive adaptive streams $\Sigma 1$ - $\Sigma 7$ to be separately accessed. In addition, this portion of Kalra does not disclose or suggest identifying the respective ones of the different subparts using the index. Accordingly, Examiner's Answer fails to demonstrate that Kalra discloses the above feature of claim 49.

The additional citations to Molteno in the Examiner's Answer only serve to demonstrate alleged similarities between the disclosures of Molteno and Kalra. These additional citations also fail to explain why one of ordinary skill in the art would modify Kalra and Goetz based on Molteno to result in the invention set forth in claim 49. That is, Molteno fails to cure the deficiencies of Kalra and Goetz to arrive at or suggest the invention set forth in claim 49.

Based on the above, the Examiner fails to demonstrate that any of Kalra, Goetz, or Molteno, alone or in combination, discloses the features of claim 49. Accordingly, Appellant respectfully requests the reversal of the 103 rejection of claim 49.

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G. Conclusion

For the above additional reasons, Appellant respectfully submits that claims 1-9 and 35-50 of the pending Application have not been established to be obvious in view of the cited references. Accordingly, Appellant respectfully requests that the Examiner be reversed.

Any inquiry regarding this Reply Brief should be directed to either Sandra Brown at Telephone No. (908) 898-4522 or Christopher P. Kosh at Telephone No. (512) 241-2403.

Respectfully submitted,

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